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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/662,567	09/15/2003	John Dennis Clark	BRADBURY/10003	9742

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EXAMINER
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CRANE, DANIEL C

ART UNIT	PAPER NUMBER
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3725

DATE MAILED: 03/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/662,567	<b>Applicant(s)</b> Clark	
	<b>Examiner</b> Daniel C Crane	<b>Art Unit</b> 3725	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 38,39,41-47,49-55,57-86 and 88-117 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 38,39,42-47,50-55,57-86 and 88-117 is/are rejected.
- 7) ☒ Claim(s) 41 and 49 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/6/04, 8/16/04</u> | 6) <input checked="" type="checkbox"/> Other: <u>IDS 346/04 3/12/04</u>                |

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## **BASIS FOR REJECTIONS**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

## **NON-STATUTORY SUBJECT MATTER**

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 54, 55, 57, 58, 59 and 60 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Since the medium can be reasonably interpreted to be a non-tangible product, i.e., code, wave, etc., the claimed subject matter is directed to a computer program per se. Accordingly, the program may be embodied in an intangible medium and thus would constitute non-statutory subject matter. See MPEP 2106.

## **REJECTION OF CLAIMS OVER PRIOR ART**

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Claims 38, 39, 42, 43, 44, 45, 46, 47, 50, 51, 52, 53, 54, 55, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 77, 81, 82, 83, 84, 85, 88, 89, 90, 91, 92, 93, 94, 97, 98, 101, 103, 104, 105, 109, 111, 112, 113, 116 and 117 are rejected under 35 U.S.C. 102(b) as being anticipated by Bradlee (4,794,773). See Figure 3 where sensors 40, 42 senses readings of travel length of the strip material 10 and adjusts the load applied to the material by rollers 82 so as to modify the condition of the material. Since the work rolls 82 are controlled via computer in a manner as taught by Bradlee ('458), the work rolls are can be adjusted vertically and axially (or centrally) (see Figures 4 and 9 of Bradlee ('458)). Peak values are automatically obtained when the highest values are determined as the sheet material is severely deflected. Accordingly, peak values and adjustments relating to that sensed condition are inherently performed by Bradlee. Since the readings are determined between a reference lines on the sheet material, the distance between the first and second sensor readings is determined. As to claim 94, see Bradlee ('458) at column 8, lines 36-40. Claim 104 can be broadly read because the "I-unit" has not bee defined.

Claim 76, 78, 79, 80, 86, 95, 96, 99, 100, 102, 106, 107, 108, 110, 114 and 115 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bradlee (4,794,773). Use of average sensed conditions in the art is well known so as to limit the amount of high and low readings. This facilitates a more accurate picture of the sensed conditions. Accordingly, such a provision within Bradlee's method and apparatus so as to prevent inaccurate readings and to facilitate better operation would have been obvious to the skilled artisan as well known. While Bradlee shows a contact type sensor, it is known in the art to use non-contact sensors, such as laser mechanisms, to obtain the same sensed condition. Accordingly, it would have been obvious to

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the skilled artisan at the time of the invention to have modified Bradlee's roll sensors by using a non contacting type sensor so as to eliminate the need to contact the material and reduce any marring of the material.

#### **INDICATION OF ALLOWABLE SUBJECT MATTER**

Claims 41 and 49 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### **PRIOR ART CITED BY EXAMINER**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

#### **RESPONSE BY APPLICANT(S)**

Applicant(s) response to be fully responsive and to provide for a clear record must specifically point out how the language of the claims patentably distinguishes them from the references, both those references applied in the objections and rejections and those references cited in view of the state of the art in accordance with 37 CFR 1.111 (a), (b) and (c).

#### **INQUIRIES**


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner D. Crane whose telephone number is (571) 272-4516.

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The examiner's office hours are 6:30AM-5:00PM, Tuesday through Friday. The examiner's supervisor, Mr. Derris Banks, can be reached at **(571) 272-4419**.

Documents related to the instant application may be submitted directly to Group 3700 by facsimile transmission at all times. Applicant(s) is(are) reminded to clearly mark any transmission as "DRAFT" if it is not to be considered as an official response. The Group 3725 Facsimile Center number is **(703) 872-9306**.

DCCrane  
March 2, 2005



**Daniel C. Crane**  
Primary Patent Examiner  
Group Art Unit 3725